

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BOBBIE TORRY,

Petitioner,

ORDER

v.

09-cv-0656-slc

GREGORY GRAMS, Warden,
Columbia Correctional Institution,

Respondent.

Bobbie Torry has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to Rule 3 of the Rules Governing Section 2254 Cases, the petition must be accompanied by:

- (1) the five dollar (\$5) filing fee; OR
- (2) a motion for leave to proceed *in forma pauperis*, the affidavit required by 28 U.S.C. § 1915, and a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution.

Petitioner has not submitted either the filing fee or the paperwork necessary to support a determination that he is entitled to proceed without paying the filing fee.

A copy of a blank application for leave to proceed *in forma pauperis* is being mailed to petitioner with this order. If petitioner wishes to proceed in this action, he should complete the form and return it to the court on or before November 20, 2009. Alternatively, petitioner must submit the \$5 filing fee. I note, however, that petitioner may wish to think twice about pursuing his petition. It appears that the petition is an unauthorized second petition over which this court lacks jurisdiction. 28 U.S.C. § 2244(b)(3); *Torry v. Grams*, 05-C-314-S.

The court will take no further action on the petition until petitioner returns a completed application for leave to proceed *in forma pauperis* or submits the filing fee. If petitioner fails to make either of these submissions on or before November 20, 2009, the court will dismiss the petition for failure to prosecute.

Entered this 5th day of November, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge